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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/758,477	01/14/2004	Anuja Nair	895,675-195	5834
7590 06/30/2008 O'MELVENY & MYERS LLP Suite 100			EXAMINER	
			SHAHRESTANI, NASIR	
114 Pacifica Irvine, CA 92618-3315			ART UNIT	PAPER NUMBER
			3737	
			MAIL DATE	DELIVERY MODE
			06/30/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
	10/758,477	NAIR ET AL.
Office Action Summary	Examiner	Art Unit
	NASIR SHAHRESTANI	3737
The MAILING DATE of this communication ap Period for Reply	opears on the cover sheet with the	correspondence address
A SHORTENED STATUTORY PERIOD FOR REPLY WHICHEVER IS LONGER, FROM THE MAILING IT  Extensions of time may be available under the provisions of 37 CFR 1 after SIX (6) MONTHS from the mailing date of this communication.  If NO period for reply is specified above, the maximum statutory period.  Failure to reply within the set or extended period for reply will, by statu Any reply received by the Office later than three months after the mailing earned patent term adjustment. See 37 CFR 1.704(b).	DATE OF THIS COMMUNICATIO .136(a). In no event, however, may a reply be tid d will apply and will expire SIX (6) MONTHS fron the, cause the application to become ABANDONI	N. mely filed n the mailing date of this communication. ED (35 U.S.C. § 133).
Status		
1) Responsive to communication(s) filed on 14.  2a) This action is <b>FINAL</b> .  2b) Th  3) Since this application is in condition for allowed closed in accordance with the practice under	is action is non-final. ance except for formal matters, pr	
Disposition of Claims		
4)  Claim(s) <u>1-34</u> is/are pending in the applicatio 4a) Of the above claim(s) is/are withdra 5)  Claim(s) is/are allowed. 6)  Claim(s) is/are rejected. 7)  Claim(s) is/are objected to. 8)  Claim(s) <u>1-34</u> are subject to restriction and/or	awn from consideration.	
Application Papers		
9) The specification is objected to by the Examination 10) The drawing(s) filed on is/are: a) according an applicant may not request that any objection to the Replacement drawing sheet(s) including the correction 11) The oath or declaration is objected to by the Examination is objected.	ccepted or b) objected to by the e drawing(s) be held in abeyance. Se ction is required if the drawing(s) is ob	ee 37 CFR 1.85(a). ojected to. See 37 CFR 1.121(d).
Priority under 35 U.S.C. § 119		
12) Acknowledgment is made of a claim for foreig a) All b) Some * c) None of:  1. Certified copies of the priority documer 2. Certified copies of the priority documer 3. Copies of the certified copies of the pri application from the International Burea * See the attached detailed Office action for a list	nts have been received. nts have been received in Applicat ority documents have been receiv au (PCT Rule 17.2(a)).	ion No ed in this National Stage
Attachment(s)  1) Notice of References Cited (PTO-892)  2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  3) Information Disclosure Statement(s) (PTO/SB/08)  Paper No(s)/Mail Date	4)  Interview Summary Paper No(s)/Mail D 5)  Notice of Informal I 6)  Other:	oate

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## **DETAILED ACTION**

## Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

 Claims 1-12, drawn to a method of acquiring ultrasound response data for vascular tissue, classified in class 600, subclass 449.

II. Claims 13-25 drawn to an intravascular-ultrasound (IVUS) data acquisition system classified in class 600, subclass 449.

Inventions I and II are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another and materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case the apparatus as claimed can be used to practice another and materially different process, such as the estimation of a transfer function according to pre-stored ultrasound data, without active data acquisition.

Restriction for examination purposes as indicated is proper because all these inventions listed in this action are independent or distinct for the reasons given above <u>and</u> there would be a serious search and examination burden if restriction were not required because one or more of the following reasons apply:

(a) the inventions have acquired a separate status in the art in view of their different classification;

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(b) the inventions have acquired a separate status in the art due to their recognized divergent subject matter;

- (c) the inventions require a different field of search (for example, searching different classes/subclasses or electronic resources, or employing different search queries);
- (d) the prior art applicable to one invention would not likely be applicable to another invention;
- (e) the inventions are likely to raise different non-prior art issues under 35 U.S.C. 101 and/or 35 U.S.C. 112, first paragraph.

Applicant is advised that the reply to this requirement to be complete must include

(i) an election of a invention to be examined even though the requirement may be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse. Traversal must be presented at the time of election in order to be considered timely. Failure to timely traverse the requirement will result in the loss of right to petition under 37 CFR 1.144. If claims are added after the election, applicant must indicate which of these claims are readable on the elected invention.

If claims are added after the election, applicant must indicate which of these claims are readable upon the elected invention.

Should applicant traverse on the ground that the inventions are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the

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inventions to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

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The examiner has required restriction between product and process claims. Where applicant elects claims directed to the product, and the product claims are subsequently found allowable, withdrawn process claims that depend from or otherwise require all the limitations of the allowable product claim will be considered for rejoinder. All claims directed to a nonelected process invention must require all the limitations of an allowable product claim for that process invention to be rejoined.

In the event of rejoinder, the requirement for restriction between the product claims and the rejoined process claims will be withdrawn, and the rejoined process claims will be fully examined for patentability in accordance with 37 CFR 1.104. Thus, to be allowable, the rejoined claims must meet all criteria for patentability including the requirements of 35 U.S.C. 101, 102, 103 and 112. Until all claims to the elected product are found allowable, an otherwise proper restriction requirement between product claims and process claims may be maintained.

Withdrawn process claims that are not commensurate in scope with an allowable product claim will not be rejoined. See MPEP § 821.04(b). Additionally, in order to retain the right to rejoinder in accordance with the above policy, applicant is advised that the process claims should be amended during prosecution to require the limitations of the product claims. Failure to do so may result in a loss of the right to rejoinder. Further, note that the prohibition against double patenting rejections of 35 U.S.C. 121 does not apply where the restriction requirement is withdrawn by the examiner before the patent issues. See MPEP § 804.01. Any inquiry concerning

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this communication or earlier communications from the examiner should be directed to NASIR

SHAHRESTANI whose telephone number is (571)270-1031. The examiner can normally be

reached on Mon.-Thurs: 7:30-5:00, 2nd Friday: 7:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Brian Casler can be reached on 571-272-4956. The fax phone number for the

organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would

like assistance from a USPTO Customer Service Representative or access to the automated

information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Brian L Casler/

Supervisory Patent Examiner, Art Unit

3737

/N. S./

Examiner, Art Unit 3737